DEPARTMENT OF DEFENSE
NATIONAL SECURITY AGENCY
FORT GEORGE G. MEADE, MARYLAND 20755-6000
SUITE NUMBER: 4248

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NATIONAL SECURITY AGENCY
CENTRAL SECURITY SERVICE
FORT GEORGE G. MEADE, MARYLAND 20755-6000

FOIA Case: 82370
30 September 2015

KATHY GOLD
11100-8 SEPULVEDA BLVD 512
MISSION HILLS CA 91345

Dear Ms. Gold:

This responds to your request of 11 September 2015, which was received by this office on 23 September 2015, for "how many times the Secret Service (the individuals) accessed my email address, hpchck@gmail.com and when?" Your letter has been assigned Case Number 82370. Please refer to this case number when contacting us about your request. Your request has been processed under the provisions of the Freedom of Information Act (FOIA). For purposes of this request and based on the information you provided in your letter, you are considered an "all other" requester. There are no assessable fees for this request.

You may be aware that one of the NSA/CSS missions is to collect, process, and disseminate communications or signals intelligence information for intelligence and counter intelligence purposes. NSA is authorized to engage in these activities in order to prevent and protect against terrorist attacks, the proliferation of weapons of mass destruction, intelligence activities directed against the United States, international criminal drug activities, and other hostile activities directed against the United States. The roles and responsibilities that NSA exercises are delineated in Executive Order 12333, as amended.

As you may also be aware, there has been considerable coverage of two NSA intelligence programs in the press/media. Under Sec. 215 of the USA PATRIOT Act, as authorized by the Foreign Intelligence Surveillance Court ("FISC"), NSA may acquire telephone metadata, such as the telephone numbers dialed and length of calls, but not the content of calls or the names of the communicants. Under Sec. 702 of the FISA, with appropriate authorization, NSA may target non-U.S. persons reasonably believed to be located outside the United States for foreign intelligence purposes. Under the FISC-authorized Sec. 215 authority, NSA cannot review any metadata unless strict requirements are met, i.e., the data may be queried only when there is a reasonable suspicion, based on specific facts, that a phone number is associated with a foreign terrorist organization. Likewise, under Sec. 702, there are strict controls approved by the FISC to help ensure that no U.S. person is targeted and FISC-approved minimizations procedures to ensure the protection of any information concerning U.S. persons that may be incidentally acquired.

Although these two programs have been publicly acknowledged, details about them remain classified and/or protected from release by statutes to prevent harm to

the national security of the United States. To the extent that your request seeks any information on you in relation to NSA intelligence programs, or in relation to any specific methods or means for conducting the programs, we cannot acknowledge the existence or non-existence of such information. Any positive or negative response on a request-by-request basis would allow our adversaries to accumulate information and draw conclusions about NSA's technical capabilities, sources, and methods. Our adversaries are likely to evaluate all public responses related to these programs. Were we to provide positive or negative responses to requests such as yours, our adversaries' compilation of the information provided would reasonably be expected to cause exceptionally grave damage to the national security.

Therefore, your request is denied because the fact of the existence or non-existence of responsive records is a currently and properly classified matter in accordance with Executive Order 13526, as set forth in Subparagraph (c) of Section 1.4. Thus, your request is denied pursuant to the first exemption of the FOIA, which provides that the FOIA does not apply to matters that are specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign relations and are properly classified pursuant to such Executive Order.

Moreover, the third exemption of the FOIA provides for the withholding of information specifically protected from disclosure by statute. Thus, your request is also denied because the fact of the existence or non-existence of the information is exempted from disclosure pursuant to the third exemption. The specific statutes applicable in this case are: Title 18 U.S. Code 798; Title 50 U.S. Code 3024(i); and Section 6, Public Law 86-36 (50 U.S. Code 3605).

To the extent that you believe these records to be subject to the Privacy Act (PA), please be advised that because the existence or non-existence of responsive records is a currently and properly classified matter in accordance with Executive Order 13526, as explained above, your request would also be denied pursuant to the (k)(1) exemption of the PA. The (k)(1) exemption of the PA provides that records subject to the provisions of the first exemption of the FOIA are exempt under the PA. Paragraph 3.6(a) of Executive Order 13526 specifically authorizes this type of response, also known as a Glomar response, to a request made under the FOIA, PA, or the mandatory review provisions of this Order. The statutes cited above under the third exemption of the FOIA would also apply to the denial of the fact of the existence or non-existence of the information if sought under the PA.

Since you state you are searching for records on "how many times the secret service (the individuals) accessed my email address" you may wish direct your request to the Secret Service at the following address:

U.S. SECRET SERVICE
ATTN: FOIA BRANCH
245 MURRAY DRIVE
BLDG 410
WASHINGTON, DC 20223

FOIA Case: 82370

The Initial Denial Authority for NSA information is the Associate Director for Policy and Records, David J. Sherman. As your request is being denied, you are hereby advised of this Agency's appeal procedures. Any person denied access to information may file an appeal to the NSA/CSS Freedom of Information Act/Privacy Act Appeal Authority. The appeal must be postmarked no later than 60 calendar days of the date of the initial denial letter. The appeal shall be in writing addressed to the NSA/CSS FOIA/PA Appeal Authority (DJ4), National Security Agency, 9800 Savage Road STE 6248, Fort George G. Meade, MD 20755-6248. The appeal shall reference the adverse determination and shall contain, in sufficient detail and particularity, the grounds upon which the requester believes that the determination is unwarranted. The NSA/CSS FOIA/PA Appeal Authority will endeavor to respond to the appeal within 20 working days after receipt, absent any unusual circumstances.

Sincerely,

C Blacker FOR

JOHN R. CHAPMAN
Chief
FOIA/PA Office